

Introduced by Senator Hueso

February 26, 2015

An act to amend Section 1236 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 481, as introduced, Hueso. Internal auditors: independence.

Existing law requires, with certain exceptions, that all city, county, city and county, and district employees who conduct audits or that conduct audit activities of those respective agencies, conduct their work under the general and specified standards prescribed by the Institute of Internal Auditors or the Government Auditing Standards issued by the Comptroller General of the United States, as appropriate. A willful violation of these provisions is a crime.

This bill would recast these provisions to prohibit these internal audit employees from working under the direct oversight of the general counsel or employees of the agency that they audit. The bill would require these employees to conduct their work under conditions that ensure their independence, as prescribed, including, but not limited to, the requirement that the head of the auditing unit, branch, or group for which he or she works be answerable directly to the head, deputy head, or governing board of the governmental agency being audited, is given direct access to that person or persons, as applicable, and is required to report the audit results to head, deputy head, or governing board.

By expanding the definition of an existing crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1236 of the Government Code is amended
2 to read:

3 1236. (a) ~~All~~ A city, county, city and county, and district
4 ~~employees that conduct~~ *employee who conducts* audits or ~~that~~
5 ~~conduct~~ *who conducts* audit activities of those respective agencies
6 shall conduct ~~their~~ *his or her* work under ~~the conditions that ensure~~
7 *independence. The employee shall not work under the direct*
8 *oversight of the general counsel or employees of the audited*
9 *agency.*

10 (b) A city, county, city and county, and district employee who
11 conducts internal audit under the direction of the audited agency's
12 management shall be considered independent for the purposes of
13 subdivision (a) if all of the following conditions are met:

14 (1) The head of the auditing unit, branch, or group for which
15 the internal auditor described in subdivision (a) works, meets all
16 of the following criteria:

17 (A) He or she is answerable directly to the head, deputy head,
18 or governing board of the governmental agency being audited,
19 and is given direct access to that person or persons, as applicable.

20 (B) He or she is required to report the audit results to the head
21 or deputy head of the agency being audited, or to the governing
22 board of that agency.

23 (C) He or she is organizationally placed outside of the staff or
24 line-management function of the unit or function being audited.

25 (D) He or she is, as much as practicable, administratively
26 situated in a manner that provides insulation from political or
27 other pressures that could affect his or her ability to conduct audits
28 and report findings, opinions, and conclusions objectively without
29 fear of political or other reprisal.

30 (2) The internal auditor conducts his or her work under the
31 general and specified standards prescribed by the Institute of
32 Internal Auditors or the Government Auditing Standards issued

1 by the Comptroller General of the United States, as appropriate.

2 The standards generally provide as follows:

3 ~~(1)~~

4 (A) That auditors should be independent of the activities they
5 audit.

6 ~~(2)~~

7 (B) That audits should be performed with proficiency and due
8 professional care.

9 ~~(3)~~

10 (C) That the scope of the audit should encompass the
11 examination and evaluation of the adequacy and effectiveness of
12 the organization's system of internal control and the quality of
13 performance in carrying out assigned responsibilities.

14 ~~(4)~~

15 (D) That audit work should include planning the audit,
16 examining and evaluating information, communicating results,
17 and following up.

18 ~~(5)~~

19 (E) That the chief auditor should properly manage the auditing
20 department.

21 ~~(b)~~

22 (c) Nothing in this section is intended to limit the rights or
23 obligations of auditors to conduct audits and audit activities in
24 accordance with other laws and regulations that may apply to a
25 particular entity, as appropriate.

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.